

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

EDMUNDO TELLES,

Plaintiff,

vs.

No. CIV 10-800 LFG

MICHAEL J. ASTRUE, Commissioner
of the Social Security Administration,

Defendant.

**ORDER GRANTING *IN FORMA PAUPERIS* STATUS
AND ORDERING SERVICE BY UNITED STATES MARSHAL**

THIS MATTER comes before the Court on Plaintiff's Motion to Proceed *In Forma Pauperis* [Doc. 2], filed August 20, 2010.

Plaintiff Edmundo Telles ("Telles") requests that he be allowed to proceed in accord with Section 1915 and be authorized to file his Complaint without the payment of a filing fee. He submitted information along with his application indicating that he is indigent and signed a form entitled "Financial Affidavit"; however, the form is not notarized, nor does Plaintiff state that the assertions are made under penalty of perjury.

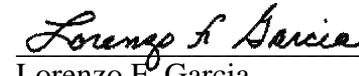
An affidavit in support of indigency is required before the Court can authorize a litigant to proceed *in forma pauperis*. 28 U.S.C. § 1915(a)(1). An affidavit in support of *in forma pauperis* status is considered insufficient if it is not notarized, *Atkins v. Sullivan*, 387 F.2d 140 (10th Cir. 1967), or at least declared under penalty of perjury to be true and correct (see, AO Form 240). However, the Court finds that denial of *in forma pauperis* status at this time, while Plaintiff prepares a renewed motion with a proper affidavit, will only serve to delay these proceedings. The Court will accept Plaintiff's assertion of indigency in this case.

Counsel is advised to employ the proper forms and procedures for requesting *in forma pauperis* relief in the future.

Order

IT IS THEREFORE ORDERED that Plaintiff's Motion to Proceed *In Forma Pauperis* [Doc. 2] is granted, and Plaintiff will be permitted to proceed without payment of a filing fee.

IT IS FURTHER ORDERED that the United States Marshal is directed to serve the summons and complaint personally on Defendant as directed by the Clerk.



Lorenzo F. Garcia
United States Magistrate Judge